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13 IN THE UNITED STATES DISTRICT COURT  
14 EASTERN DISTRICT OF CALIFORNIA

15 UNITED STATES OF AMERICA,  
16 Plaintiff,  
17 v.  
18 BRIAN WHITWORTH,  
19 Defendant.

20 CASE NO. 1:22-CR-00222-ADA-BAM  
21 STIPULATION REGARDING EXCLUDABLE  
22 TIME PERIODS UNDER SPEEDY TRIAL ACT;  
23 ORDER  
24 DATE: January 25, 2023  
25 TIME: 2:00 p.m.  
COURT: Hon. Barbara A. McAuliffe

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28 **BACKGROUND**

29 This case is set for a status conference on January 25, 2023. This Court should consider the  
30 following case-specific facts in finding excludable delay appropriate in this particular case under the  
31 ends-of-justice exception, § 3161(h)(7) (Local Code T4). If continued, this Court should designate a  
32 new date for the status conference. *United States v. Lewis*, 611 F.3d 1172, 1176 (9th Cir. 2010) (noting  
any pretrial continuance must be “specifically limited in time”).

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34 **STIPULATION**

35 Plaintiff United States of America, by and through its counsel of record, and defendant, by and  
36 through defendant’s counsel of record, hereby stipulate as follows:

37 1. By previous order, this matter was set for a status conference on January 25, 2023.  
38 2. By this stipulation, defendant now moves to continue the status conference until March 8,  
39 2023, and to exclude time between January 25, 2023, and March 8, 2023, under 18 U.S.C.

1 § 3161(h)(7)(A), B(iv) [Local Code T4].

2       3. The parties agree and stipulate, and request that the Court find the following:

3           a) The government has represented that the discovery associated with this case  
4 includes 5.34 gigabytes of discovery including investigative reports, audio and video footage,  
5 and related documents in electronic form. All of this discovery has been either produced directly  
6 to counsel and/or made available for inspection and copying.

7           b) Counsel for defendant desires additional time to consult with his client, review the  
8 current charges, review discovery, and to conduct investigation related to the charges.

9           c) Counsel for defendant believes that failure to grant the above-requested  
10 continuance would deny him the reasonable time necessary for effective preparation, taking into  
11 account the exercise of due diligence.

12           d) The government and the defense counsel have entered into plea negotiations with  
13 the hopes to resolve the case short of trial. The parties request additional time to discuss the  
14 terms of the potential plea in order to reach an agreement.

15           e) The government does not object to the continuance.

16           f) Based on the above-stated findings, the ends of justice served by continuing the  
17 case as requested outweigh the interest of the public and the defendant in a trial within the  
18 original date prescribed by the Speedy Trial Act.

19           g) For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161,  
20 et seq., within which trial must commence, the time period of January 25, 2023 to March 8,  
21 2023, inclusive, is deemed excludable pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv) [Local Code  
22 T4] because it results from a continuance granted by the Court at defendant's request on the basis  
23 of the Court's finding that the ends of justice served by taking such action outweigh the best  
24 interest of the public and the defendant in a speedy trial.

25       4. Nothing in this stipulation and order shall preclude a finding that other provisions of the  
26 Speedy Trial Act dictate that additional time periods are excludable from the period within which a trial  
27 must commence.

1 IT IS SO STIPULATED.  
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Dated: January 17, 2023

PHILLIP A. TALBERT  
United States Attorney

5 /s/ ARIN C. HEINZ  
6 ARIN C. HEINZ  
7 Assistant United States Attorney  
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Dated: January 17, 2023

10 /s/ ROBERT LAMANUZZI  
11 ROBERT LAMANUZZI  
12 Counsel for Defendant  
13 BRIAN WHITWORTH  
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**ORDER**

16 IT IS SO ORDERED that the status conference is continued from January 25, 2023, to **March 8,**  
17 **2023, at 1:00 p.m. before Magistrate Judge Barbara A. McAuliffe.** Time is excluded pursuant to 18  
18 U.S.C. § 3161(h)(7)(A), B(iv).

19 IT IS SO ORDERED.

20 Dated: January 18, 2023

21 /s/ Barbara A. McAuliffe

22 UNITED STATES MAGISTRATE JUDGE  
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